IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 193/2007
(Prahlad Singh @ Annu & Ors. V/s State of Rajasthan)

Date of Order : 03/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.S.Chundawat, for the petitioners.
Mr. Ashok Upadhyay, P.P.

BY THE COURT:-

By the instant criminal revision petition under Section 397 r/w Section 401 Cr.P.C., the petitioners have challenged the order dated 14.2.2007 passed by Additional Sessions Judge (Fast Track) No.1, Bhilwara (for short 'the trial court; hereinafter) in Sessions Case No.12/2007 whereby the trial court framed charges against the petitioners for the offences under Sections 392, 394, 397, 323/34 IPC and 3/25 of the Arms Act.

I have heard learned counsel for the petitioners and public prosecutor for the state.

The only point argued by the learned counsel for the petitioners is that the trial court fell in error in framing charge for the offence under Section 397 IPC as there being no grievous injury to the victim. He has invited my attention to the injury

report of the victim Firoj Khan who suffered the following injuries:-

1. Abrasion	1”x1”	neck Ant. Region	simple	blunt
2. Abrasion	1/2”x1/2”	Lt. Cheek	simple	blunt
3. Abrasion	1”x1/2” (Multiple)	Back	simple	blunt
4. Abrasion	2”x1/4”	Rt. Leg	simple	blunt
5. Abrasion	1/2”x1/2”	Lt. Ankle	simple	blunt

The Medical Officer who examined the injured opined that all the injuries have been caused by blunt object and are simple in nature. While framing charge No.4, the trial court noticed that injured Firoj Khan has suffered grievous injuries. This appears to be contrary to the record. There cannot be a charge for the offence under Section 397 IPC unless there is evidence that at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person. In the instant case, there is absolutely no allegation firstly that the petitioners have used deadly weapons and caused grievous hurt to any person or attempted to cause death or grievous hurt. Keeping in view the nature of injuries suffered by the victim as evident from the injury report, in my view, the trial court fell in error in framing charge against the petitioners for

the offence under Section 397 and 397/34 IPC and therefore, the order of the trial court to the extent framing charge against the petitioners for the offence under Section 397, 397/34 cannot be sustained and is liable to be set aside. The charges for other offences have not been challenged.

In this view of the matter, the criminal revision petition is allowed. The order impugned passed by the trial court dated 14.2.2007 to the extent framing charge against the petitioners for the offences under Sections 397, 397/34 IPC is set aside. The court below shall proceed in accordance with the provisions of Section 228 Cr.P.C. The record of the trial court be returned forthwith.

(H.R.PANWAR),J.

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